

**FINDINGS AND CONDITIONS OF APPROVAL – COUNTY FILE #CDDP24-03053, DEAN MILLS (APPLICANT) / CENTURY COMMUNITIES OF CALIFORNIA, LLC (OWNER)**

**FINDINGS**

**A. Development Plan Findings (County Code Section 84-26.1806)**

In approving a Development Plan in the Discover Bay P-1 District, findings are required that the proposed project is consistent with the intent and purpose of the P-1 District and is compatible with other uses in the vicinity, both inside and outside of the district.

1. *Required Finding: The proposal is consistent with the purpose of the zoning district.*

Project Finding: The subject properties are located in the P-1 Planned Unit District and include the Newport Pointe subdivision (to the south) and the Discovery Bay West Development (to the north).

The conditions of approval for both Final Development Plans and their respective Major Subdivisions include conditions that are intended to guide development within the subdivision, and the type of development allowed on the subject properties. These Development Plans also address obtaining the necessary utilities to meet the expected needs of the existing residential development and the proposed Newport Pointe development. Trenching along Newport Drive was previously requested and approved under Development Plan CDDP24-03002, as it was needed to ensure sufficient capacity to serve the proposed Newport Pointe Subdivision. Following the approval by the Board of Supervisors, the Town of Discovery Bay recognized the need of an access road to access the sewer manholes. The maintenance vehicle would access the road from Newport Drive. In addition, due to the previously approved pad elevation for the Newport Pointe development, the new access road needs the construction of retaining walls to meet the new grade. The walls are to match all previously approved existing walls, and cross between parcel 011-710-074 and 011-350-010.

Ultimately, all parcels are expected to remain the same once the road work and the retaining walls are completed. The use within each development plan is not intended to change. Additionally, Condition of Approval #3 requires the applicant to include plans to return the surrounding area (particularly that around the new access road) to its original condition so as to maintain the nature of the parcel as open space area for both subdivisions. Therefore, the overall project is consistent with the development guidelines as described by the Newport Point Development

and the Discovery Bay West Development.

2. *Required Finding. That the proposal is compatible with other uses in the vicinity, both inside and outside the zoning district.*

The project does not change the use established under the P-1 Zoning District approval, and remains as open space, as originally approved. The surrounding areas consist of single-family residences to the north (Discovery Bay West), proposed new single-family lots to the south (Newport Pointe subdivision), a R.V. storage and parking area to the west, and a vacant lot to the east, both of which are also designated as open space. The original approval in 1997, deemed Parcel J and the lot across from it (Parcel E) as open space (now noted under the new General Plan as Resource Conservation) lots with no allowability for development. Both lots are also noted as "restricted development" and have been grant deeded to the County.

The project does not construct any type of urban development, and it plans to maintain the area as green space, as intended by the original designation of open space under the previous General Plan, and under the new designation of Resource Conservation. On parcel 011-710-074, which has been designated as a common area for the Newport Pointe subdivision, the retaining walls are not unlike those walls already approved for the development. The retaining walls are also necessary elements due to the change in elevation between parcels. The change in elevation was previously approved as part of the Newport Pointe development plan and it was further modified under Development Plan CDDP24-03002 to create a smoother transition between lots due to the different elevations, and to address the 100-year floodplain elevation. The rest of the parcel is to remain in its existing condition with no additional work. The project has also been conditioned to ensure that the applicant returns the site to its original condition where feasible. Ultimately, the use of the parcel J will remain as a resource conservation parcel, and shall remain undisturbed, aside from the periodic maintenance visits; and parcel 011-710-074 shall remain as a common area for the Newport Pointe subdivision with no other new development. Therefore, the project is compatible with the vicinity.

## **B. California Environmental Quality Act (CEQA) Findings**

The project is exempt under CEQA Guidelines Section 15304 and 15305. Section 15304 exempts minor trenching and backfilling where the surface has been restored. The project applicant is conditioned to return the area to its original condition where possible. Section 15305 exempts minor alterations in land use in areas with an average

slope of less than 20% which does not result in any changes in land use or density. The proposed new retaining wall along the northern boundary of parcels 011-710-074 and 011-350-010 is not expected to change the land use or density and will maintain the parcel with its intended use, and the road will be used solely for maintenance purposes when required.

## **CONDITIONS OF APPROVAL FOR COUNTY FILE #CDDP24-03053**

### **Development Plan Approval**

1. This Substantial Modification to Final Development Plans #CDDP09-03029 (Newport Pointe Subdivision) for the construction of retaining walls more than three feet at 0-foot setback on APN 008-540-037 as it crosses over 011-350-010, and a modification to #CDDP91-03025 (Discovery Bay West Subdivision) to allow grading on Parcel J for a sanitary sewer access road. The new road requires retaining walls as a way to adjust to the grade difference due to the pad elevation between APN: 011-710-074 and 011-350-010. The improvements have been required and requested by the Town of Discovery Bay, is generally **APPROVED** based on the application and materials received by the Department of Conservation and Development, Community Development Division (CDD) on November 25, 2024.
2. This approval is contingent upon receiving Board of Supervisors approval for the trenching and grading of Parcel J (Assessor Parcel Number: 011-350-010).
3. Prior to receiving Final Inspection, and once the access road and on Parcel J has been completed, the applicant must provide evidence to CDD that the area surrounding the new access road and along Newport Drive has been returned to its original condition as feasible as possible.

### **Application Costs**

4. The Development Plan application was subject to an initial deposit of \$3,500.00. The application is subject to time and material costs if the application review expenses exceed the initial deposit. **Any additional fee due must be paid prior to an application for a grading or building permit, or 60 days of the effective date of this permit, whichever occurs first.** The fees include costs through permit issuance and final file preparation. Pursuant to Contra Costa County Board of Supervisors Resolution Number 2019/553, where a fee payment is over 60 days past due, the Department of Conservation and Development may seek a court judgement against the applicant and will charge interest at a rate of ten percent (10%) from the date of judgement. The applicant may obtain current costs by

contacting the project planner. A bill will be mailed to the applicant shortly after permit issuance in the event that additional fees are due.

### **General Provisions**

5. Any deviation from or expansion beyond the limits of this permit may necessitate the filing and approval of a request for modification to the Development Plan Permit approval.
6. Unless otherwise noted, all conditions of approval for CDDP91-03025, and CDDP09-03029 remain in full force and effect and apply to this proposal.

### **Air Quality**

7. The following air quality measures shall be implemented during project construction and shall be stated on the face of all construction plans:
  - a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  - g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be

checked by a certified visible emissions evaluator.

The applicant shall post a publicly visible sign with the telephone number and the person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

8. During construction, the project developer shall implement standard construction dust control measures which shall be stated on the face of all construction plans:
  - a. Watering active construction areas on the site at least twice daily.
  - b. Daily watering or covering stockpiles of debris, soils, sand, and other materials that can be blown by the wind.
  - c. Covering all trucks hauling soils, sand, and other loose material or require all material-hauling trucks to maintain at least two feet of freeboard.
  - d. Paving, watering three times daily, or applying non-toxic soil stabilizers on all unpaved access roads, parking lots, and staging areas at construction site.
  - e. Sweeping streets daily, preferably with water sweepers, if soil is carried onto adjacent streets.
  - f. Seeding disturbed areas as quickly as possible or installation of cover vegetation over exposed soils.

### **Cultural Resources**

9. The following mitigation measure shall be implemented during project construction-related ground disturbance, and shall be stated on the face of all construction plans:
10. Should human remains be encountered during grading, trenching, or other on-site excavation(s), earthwork within 30 feet of the discovery should be stopped until the County Coroner has had an opportunity to evaluate the significance of the human remains and determine the proper treatment and disposition of the human remains. If the human remains are of a Native American origin, the Coroner must

notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant (MLD) to inspect the property and provide recommendations for the proper treatment of the remains and associated grave goods.

### **Encroachment Permit**

11. Applicant shall obtain an encroachment permit from the Public Works Department Center, if necessary, for construction of any driveway or any other construction within the right-of-way of Newport Drive.

### **Construction Restrictions**

Contractor and/or developer shall comply with the following construction, noise, dust and litter control requirements.

12. A dust and litter control program shall be submitted for the review and approval of the Community Development Division staff. Any violation of the approved program or applicable ordinances shall require an immediate work stoppage. Construction work shall not be allowed to resume until, if necessary, an appropriate construction bond has been posted.
13. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
14. The applicant shall make a good faith effort to minimize project-related disruptions to adjacent properties, and to uses on the site. This shall be communicated to all project-related contractors.
15. The applicant shall require their contractors and subcontractors to fit all internal combustion engines with mufflers which are in good condition and shall locate stationary noise-generating equipment such as air compressors as far away from existing residences as possible.
16. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
17. Large trucks and heavy equipment are subject to the same restrictions that are imposed on construction activities, except that the hours are limited to 9:00 AM to 4:00 PM.

18. Unless specifically approved otherwise via prior authorization from the Zoning Administrator, all construction activities shall be limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and are prohibited on State and Federal holidays on the calendar dates that these holidays are observed by the State or Federal government as listed below:

New Year's Day (State and Federal)  
Birthday of Martin Luther King, Jr. (State and Federal)  
Washington's Birthday (Federal)  
Presidents' Day (State)  
Cesar Chavez Day (State)  
Memorial Day (State and Federal)  
Juneteenth National Independence Day (Federal)  
Independence Day (State and Federal)  
Labor Day (State and Federal)  
Columbus Day (Federal)  
Veterans Day (State and Federal)  
Thanksgiving Day (State and Federal)  
Day after Thanksgiving (State)  
Christmas Day (State and Federal)

For specific details on the actual day the State and Federal holidays occur, please visit the following websites:

Federal Holidays: [Federal Holidays \(opm.gov\)](https://www.opm.gov/federal-holidays/)

California Holidays: <https://www.calhr.ca.gov/employees/pages/state-holidays.aspx>

19. The applicant shall make a good faith effort to minimize project-related disruptions to adjacent properties, and to uses on the site. This shall be communicated to all project-related contractors.

### **ADVISORY NOTES**

PLEASE NOTE THAT ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL BUT ARE NOT A PART OF THE CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCE AND OTHER LEGAL REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH DEVELOPMENT.

A. NOTICE OF 90-DAY OPPORTUNITY TO PROTEST FEES, DEDICATIONS, RESERVATIONS, OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

This notice is intended to advise the applicant that pursuant to Government Code Section 66000, et seq., the applicant has the opportunity to protest fees, dedications, reservations, and/or exactions required as part of this project approval. The opportunity to protest is limited to a 90-day period after the project is approved.

The 90-day period, in which you may protest the amount of any fee or the imposition of any dedication, reservation, or other exaction required by this approved permit, begins on the date this permit was approved. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and delivered to the CDD within 90 days of the approval date of this permit.

- B. The applicant must comply with the requirements of the Contra Costa County Building Inspection Division. They will require, at minimum, architectural, and structural plans before issuance of a building permit.
- C. The applicant must comply with applicable requirements of the Contra Costa County Fire Protection District. The applicant is advised to submit plans to the Fire Protection District for approval prior to submitting for a building permit.
- D. The applicant is advised that plans submitted for a sign permit may require prior approval and be stamped by the Town of Discovery Bay Community Services District.